UNITED STATES DISTRICT COURT WESTERN DISTRICT OF NORTH CAROLINA CHARLOTTE DIVISION

3:16-cv-562-FDW (3:11-cr-408-FDW-1)

LAVANDUS HOUSTON,)	
Petitioner,)	
)	
VS.)	<u>ORDER</u>
UNITED STATES OF AMERICA,)	
Respondent.)	
)	

THIS MATTER is before the Court on Petitioner's Motion under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody. (Doc. No. 1.) Petitioner seeks relief under Johnson v. United States, 135 S. Ct. 2551 (2015).

On June 29, 2016, the Fourth Circuit Court of Appeals docketed a motion by Petitioner, who was seeking authorization to file a second or successive § 2255 motion in federal district court. (Doc. No. 1.) The Fourth Circuit denied Petitioner's motion on July 19, 2016, holding that because he had never filed an initial § 2255 motion, Petitioner did not need the appellate court's permission to raise his <u>Johnson</u> claim in the district court. (Doc. No. 1-1.)

On November 17, 2015, the judges of this Court issued a Standing Order appointing the Federal Defenders of Western North Carolina to represent any defendant who was previously determined to have been entitled to appointment of counsel, or who is now indigent, to determine if that defendant is eligible for relief under <u>Johnson</u>. Standing Order in re: <u>Johnson v. United States</u>, No. 3:13-mc-00196-FDW (W.D.N.C. Nov. 17, 2015). Petitioner was previously determined to be indigent. Petitioner appears to fall within the purview of this Court's Standing Order, the Court will allow the Federal Defender sixty (60) days to review the Petitioner's case

and to file a supplement, if any, to the Petitioner's motion to vacate.

IT IS, THEREFORE, ORDERED that no later than sixty (60) days from entry of this Order, the Federal Defenders of Western North Carolina may file a supplement to Petitioner's motion to vacate.

IT IS FURTHER ORDERED that the Clerk of Court shall provide a copy of this Order to Petitioner and the Federal Defenders of Western North Carolina.

Signed: September 21, 2016

Frank D. Whitney

Chief United States District Judge